



Billing Code 3410-DM-P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317 and 381

[Docket No. FSIS-2005-0018]

Nutrition Labeling of Single-Ingredient Products and Ground or Chopped Meat and Poultry Products; Delay of Effective Date and Correction

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final Rule; delay of effective date and correction.

SUMMARY: The Food Safety and Inspection Service (FSIS) is delaying the effective date of the final regulations that require nutrition labeling of the major cuts of single-ingredient, raw meat and poultry products and ground or chopped meat and poultry products that were published in the Federal Register on December 29, 2010. The original effective date of these regulations was January 1, 2012. FSIS is taking this action in response to a request from eight trade associations. The trade associations requested that FSIS exercise enforcement discretion for a six month period following the January 1, 2012, effective date of the final rule. However, FSIS has concluded that a two month delay in the effective date will allow industry sufficient time to comply with the requirements of the final

rule. The new effective date of the final rule is March 1, 2012.

FSIS is also making a correction to the final rule to clarify an amendatory instruction.

DATES: The effective date of the rule amending 9 CFR Parts 317 and 381 published at 75 FR 82148, December 29, 2010, is delayed until March 1, 2012. The effective date of the correction to the rule published at 75 FR 82148, December 29, 2010, is March 1, 2012.

FOR FURTHER INFORMATION CONTACT: Rosalyn Murphy-Jenkins, Director, Labeling and Program Delivery Division, Office of Policy and Program Development, Food Safety and Inspection Service, U.S. Department of Agriculture, (301) 504-0878.

SUPPLEMENTARY INFORMATION:

Background

On December 29, 2010, FSIS published the final rule, "Nutrition Labeling of Single-Ingredient Products and Ground or Chopped Meat and Poultry Products" in the Federal Register (75 FR 82148) that, among other things, amended the Federal meat and poultry products inspection regulations to require nutrition labeling of the major cuts of single-ingredient, raw meat and poultry products identified in §§ 317.344 and 381.444 that are not ground or chopped, except for certain exemptions. For these products, the final rule requires that nutrition information be

provided on the label or at point-of-purchase (POP) (e.g., by sign or brochure), unless an exemption applies. The final rule also amended FSIS's regulations to require nutrition labels on all ground or chopped meat and poultry products, with or without added seasonings, unless an exemption applies. In addition, the final rule provided that when a ground or chopped product does not meet the regulatory criteria to be labeled "low fat," a lean percentage statement may be included on the label or in labeling as long as a statement of the fat percentage that meets the specified criteria also is displayed on the label or in labeling. The required statement of fat percentage must be contiguous to, in lettering of the same color, size, and type as, and on the same color background as, the statement of lean percentage. The final rule also provided several exemptions from the nutrition labeling requirements.

Outreach: In the preamble to the final rule, FSIS stated that it would conduct meetings and webinars on the final rule and would provide additional information and guidance as needed. FSIS also stated its intention to make nutrition labeling materials that can be used at the POP of the major cuts and additional examples of acceptable labels for ground products available on the Agency's website six months prior to the effective date. Since the final rule was published, FSIS has posted on its website the final POP materials and examples of

nutrition facts panels for ground or chopped products and has conducted webinars on the final rule. In addition, the Agency has conducted many other education and outreach activities to assist retailers and Federal establishments in complying with the requirements of the final rule, such as posting a PowerPoint presentation on its website that gives an overview of the requirements of the final rule, presenting information and answering questions on the requirements of the final rule at numerous meetings, posting questions and answers on its website, and responding to numerous questions from stakeholders about the regulations through askFSIS at <http://askfsis.custhelp.com/>

Request for Enforcement Discretion

FSIS received a letter dated August 12, 2011 from eight trade associations (the American Lamb Board, the American Meat Institute, the Food Marketing Institute, the National Cattlemen's Beef Association, the National Chicken Council, the National Grocer's Association, the National Pork Board, and the National Turkey Federation), which requested that FSIS exercise enforcement discretion for a six month period following the January 1, 2012, effective date of the final rule. The letter cited the Agency's 1-2 month delay in making POP and nutrition facts panel materials available on FSIS's website and in conducting the FSIS webinars as the basis for the enforcement discretion. As a result of FSIS's delay in providing this

information to retailers, the trade associations stated that it would be difficult for retailers to have systems in place (e.g., tens of thousands of scales across the industry will have to be replaced or updated with new software) and training of tens of thousands of employees completed by the January 1, 2012, effective date. The trade associations also stated that it would be difficult for Federal establishments to redesign thousands of labels and have them approved by FSIS by the January 1, 2012, effective date.

Because of the 1-2 month delay in making the FSIS POP materials and nutrition facts panel examples available on FSIS's website and in beginning the FSIS webinars, FSIS has decided to delay the effective date of the final rule until March 1, 2012. The 2 month delay will ensure that industry has sufficient time to comply with the final rule and be in full compliance with the final rule on March 1, 2012.

FSIS determined that a 6 month delay in the effective date is not warranted. The request did not provide any support to justify a 6 month delay in the effective date. Even if, as the letter stated, a delay in FSIS label approval exists, a 2 month delay in the effective date would allow the Agency enough time to approve the new or redesigned nutrition labels submitted by official establishments by March 1, 2012, provided the labels are submitted by January 1, 2012. As described above under

"Outreach," since the final rule was published, FSIS has conducted many education and outreach activities to assist retailers and Federal establishments in complying with the requirements of the final rule. FSIS will continue to conduct these education and outreach activities to assist compliance by March 1, 2012.

Need for Correction

FSIS is making a correction to amendment 17f on page 82167 of the final regulations published on Wednesday, December 29, 2010, to clarify that language is being added to the end of the first sentence in § 381.500(d)(1), not at the end of the second sentence.

Additional Public Notification

FSIS will announce this notice online through the FSIS Web page located at

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Correction

In FR Doc. 2010-32485 appearing on page 82148 in the Federal Register of Wednesday, December 29, 2010, the following corrections are made:

§ 381.500 [Corrected]

1. On page 82167, in the third column, in Part 381 Poultry Products Inspection Regulations, in amendment 17f, the instruction "Amending paragraph (d)(1) by removing the period at the end of the sentence, and by adding the following to the end of the sentence: 'except that this exemption does not apply to the major cuts of single-ingredient, raw poultry products identified in § 381.444.'" is corrected to read "Amending paragraph (d)(1) by removing the period at the end of the first sentence, and by adding the following to the end of the first

sentence: `,except that this exemption does not apply to the major cuts of single-ingredient, raw poultry products identified in § 381.444.' "

Done in Washington, DC, on: December 5, 2011

Alfred V. Almanza,
Administrator.

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